IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 1ST NOVEMBER 2007 / 10TH KARTHIKA 1929

Bail Appl..No. 6554 of 2007()

CRIME NO.384/07 OF KILIMANOOR POLICE STATION

PETITIONER : 1ST ACCUSED:

SIYAD, S/O.ABDUL RASHEED,
MALAYATTUR MELATHIL, PONGANADU P.O.,
KILIMANOOR, THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI. K.SIJU

RESPONDENT/COMPLAINANT:

STATE OF KERALA REPRESENTED BY S.I.
OF POLICE, KILIMANOOR POLICE STATION THROUGH
PUBLIC PRISECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 01/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 6554 of 2007

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Dated this the 1st day of November, 2007

O R D E R

Application for anticipatory bail. The petitioner is the first accused. Altogether there are four accused persons. The petitioner faces allegations in a crime registered under Section 326 I.P.C. The alleged incident took place on 3.10.2007. The F.I. statement is seen lodged only on 5.10.2007. The victim/defacto complainant was admitted in the hospital on 3.10.2007 itself. He had only a fracture of the thumb. To the doctor the specific allegation that was raised was that one Praveen and four to five persons identifiable by sight had hit him with an 'Idikatta' and had beaten him with hands. The victim was taken to the hospital by his mother as per the wound certificate. But when it came to the F.I. statement, a totally different version is seen advanced that he

had suffered the injury by beating with an iron rod by the petitioner herein and that some other persons had hit him with some object, which object is later clarified to be a stone. Prior animosity is alleged to be the motive. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that inherently and on broad probabilities there is reason to doubt the version of the defacto complainant. The version appears to have undergone transformation. The explanation sought to be given now that the version to the doctor was given by someone else is not supported by the doctor. At any rate, the learned counsel submits that this is a fit case where the circumstances persuade the court to grant anticipatory bail to the petitioner.

3. The learned Prosecutor opposes the application. He submits that notwithstanding the incongruity between the name of the assailant mentioned in the wound certificate and in the F.I. statement and the nature of the attack which is revealed in the

wound certificate and in the F.I. statement, the petitioner may not be permitted to arm himself with an order of anticipatory bail. The learned Prosecutor submits that the apparent error in the description of the name of the assailant is caused due to the fact that a friend of the accused claims that it is he who gave the information to the doctor. I shall not embark on a detailed discussions on the acceptability of the allegations raised or the credibility of the data now available. I have gone through the case diary because of the incongruities. I am satisfied that this is a fit case where the petitioner is entitled to anticipatory bail.

4. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioner shall surrender before the learned Magistrate on 7.11.2007 at 11 a.m. The learned Magistrate shall release the petitioner on regular bail on condition that he

executes a bond for Rs.25,000/- (Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 8.11.2007 and 9.11.2007. During this period the Investigating Officer shall be at liberty to interrogate the petitioner in custody and take further steps for the investigation of the crime. Thereafter the petitioner shall appeal on all Mondays and Fridays between 10 a.m. and 12 noon for a period of one month and subsequently as and when directed by the Investigating Officer in writing to do so.

(c) If the petitioner does not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 7.11.07 and the police shall be at liberty thereafter to arrest the petitioner and deal with him in accordance with law.

(d) If the petitioner were arrested prior to his surrender on 7.11.2007 as directed in clause (1) above, he shall be released on bail on his executing a bond for Rs.25,000/- without any surety undertaking to appear before the learned Magistrate on 7.11.2007.

(R. BASANT)
Judge

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